

REMARKS

Claims 1-28 had been previously cancelled, Claims 29-36 and 50-54 are presently cancelled, therefore, Claims 37-49, 55 and 56 are active in this application.

Reconsideration in view of the foregoing amendments and following remarks is respectfully requested. Claims 37-49 are amended and Claims 55 and 56 newly submitted. Claim 55 is submitted to embody the subject matter of cancelled Claim 36. Because of the extensive amendments that were necessary to Claim 36, Claim 55 is submitted in lieu thereof so that the Examiner may view the amendments in clean copy. The rejections as they would apply to Claim 36 will be discussed hereafter as they relate to Claim 55.

The rejections of Claims 29-36 and 50-54 under the first and second paragraphs of 35 U.S.C. § 112 are obviated by the cancellation thereof. These claims are cancelled in an effort to expedite the prosecution of Claims 37-49, 55 and 56, and does not mean that Applicants agree with the correctness of the rejections. Applicants reserve the right to further pursue Claims 29-36 and 50-54 once the prosecution of Claims 37-49, 55 and 56 has been concluded.

The rejection of Claims 37-49 and by construction, 55 and 56 under the second paragraph of 35 U.S.C. §112 is in part obviated by the numerous amendments to the claims to resolve the issues enumerated in the Office Action under reply as set out below, and is otherwise respectfully traversed:

- i) The term “general “ preceding formula (1) has been deleted as kindly suggested by the Examiner;
- ii) The rejection of the terms “(C5-C18) heterocycle” and “(C5-C12) heterocycle” are traversed. The Examiner asserts that a heterocycle must contain other than carbon atoms by definition. This is true, and is not inconsistent with Applicants’ position since the parenthetical expressions define no more than the number of carbon atoms in the heterocycle. One of ordinary skill in the art would not interpret the terms to mean hydrocarbon groups containing the specified number of carbon atoms, particular since the heteroatom content of the groups is given. Applicants’ specification contains

definitions and numerous examples of heterocyclic groups illustrating the scope of the terms. Given that their meaning is well recognized by those of ordinary skill in the chemical and pharmaceutical arts, it is respectfully submitted that they satisfy the second paragraph of 35 U.S.C. §112;

- iii) The rejection based on the language “and the latter” in the definition of R5 in Claim 56, wherein R5 is naphthyl and is substituted in position 6 is obviated in Claim 56 by replacement with “said naphthyl group is not attached to the rest of the molecule at position 2”;
- iv) The objected to terms “being selected”, “in particular”, “representing”, “such as”, and “acetamide(CH₃CONH)” have all been corrected by the foregoing amendments. In each instance where a group is optionally substituted, the possible substituents are recited. Instances where a narrow range is recited within a list of broader terms have been eliminated. Applicants contend that the broad range of examples given in their specification for the term “heterocycle” supports the scope thereof as would be understood by the skilled chemist, hence the term is not indefinite within the meaning of the second paragraph of 35 U.S.C. §112. In the foregoing amendments, especially the drafting of Claim 56, newly submitted, Applicants have attempted to more clearly define wherein the possible substituents on a particular group end and the statement of the next group begins to make clear that there are no ranges within ranges. The recitation at the end of the definition of the meanings of R6 and R9 that the substituents may themselves be optionally substituted has been deleted, thereby obviating the rejection thereon.

Although the term “heterocycloalkyl” is not specifically defined in the specification, Applicants disagree that it is indefinite and, hence, there is no need for a definition. However, the term, which those of ordinary skill in the art recognize as meaning a non-aromatic monocyclic or polycyclic ring comprising carbon and hydrogen and at least one heteroatom, falls within the scope of “heterocyclic, aromatic or not” which precedes it in several instances in Claim 56. Hence, because it is of lesser scope than the preceding term, it has been removed from claims 56. The removal of the term

from Claim 56 obviates the rejection thereof under the second paragraph of 35 U.S.C. §112; and

(v) The rejection of Claim 43 due to the presence of the phrase “for example” is obviated by the deletion thereof.

It is respectfully submitted that, in view of the foregoing arguments and the extensive amendment to the claims, the claims as amended meet the requirements of the second paragraph of 35 U.S.C. §112. Withdrawal of the rejection is in order and is respectfully requested.

The Examiner notes in the Office Action under reply that there are compounds excluded by provisos in Claim 34, now Claim 55, and requests Applicants to provide a citation in the prior art where such compounds are disclosed. The relevant citation is not available as prior art to the instant claims, although inclusion of the provisos was deemed necessary due to considerations in other jurisdictions. The citation is PCT Published Application WO 02/098865, a copy provided herewith. For the Examiner’s convenience, given that the PCT publication is in French, the corresponding U.S. application issued as U.S. Patent No. 7,250,410. With the availability of the issued U.S. patent. The PCT application has a publication date of December 12, 2002. The instant application has a priority date from French Application No. 02/13607, filed on October 30, 2002, prior to the publication date of the PCT application. Hence, it is not available as prior art against the claims under consideration.

The rejection of Claims 37-49, 55 and 56 under 35 U.S.C. §103 as being unpatentable over Beton GB 1,346,176 is respectfully traversed. The Examiner has identified the compounds of Examples 1 and 2 of Beton as the closest prior art. Applicants note that Examples 1 and 2 of the citation are the same compound and that the compound is stated as being a reference compound cited as a starting material for the compounds disclosed in Beton. Hence, it is clear that one of ordinary skill in the medical or pharmaceutical arts seeking to prepare new therapeutic agents useful as PDE2 inhibitors useful in treating the conditions set forth in Applicants’ specification would not look to the compound taught in the first two examples of the citation since it

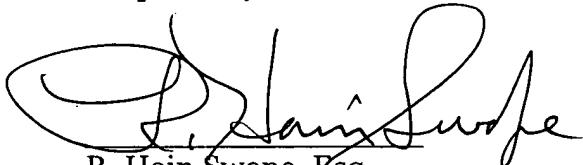
has no stated utility other than a reference compound starting material. There are many benzodiazepine compounds known in the art, hence the structural similarity of these reference materials to the compounds claimed herein is not considered sufficient to render them obvious to one of ordinary skill in the pharmaceutical arts.

The compound prepared in the first two examples of Beton differs from Applicants' compounds in several critical respects. Primarily, the Beton compound requires an N-oxide at position 4, the subject compounds do not include an N-oxide substituent. The Examiner characterizes the Beton compound as a position isomer of Applicants' compounds, Applicants respectfully disagree. The subject compound do not include a single halogen substituent on the phenyl group at position 5. The only phenyl group having a single halogen substituent is a phenyl group which, itself, is a substituent on the phenyl group at position 5. Applicants' compounds do include several that have 3,4-dichloro substitution on the 5-phenyl group, but such compounds would hardly be considered position isomers of the Beton compound that has only a single ortho chloro substituent. Further, the Beton compound, as well as the compounds claimed in the Benton patent, contain a dialkylaminoalkyl or heteroalkyl substituent at position 1, whereas the compounds claimed herein do not have a substituent on position 1 containing a nitrogen. It is respectfully submitted that these differences in structure and the fact that the compounds in Beton considered to be more closely structurally related to the compounds claimed herein are disclosed only as reference materials, in sum, do not render Applicants' compound obvious within the meaning of 35 U.S.C. §103. Withdrawal of the rejection is in order and is respectfully requested.

It is respectfully submitted that Claims 37-49, 55 and 56, as amended, meet the requirements of the first and second paragraphs of 35 U.S.C. §112 and clearly define patentable subject matter over the Beton citation. Accordingly, it is respectfully submitted that the above-identified patent application is in condition for allowance. An early Notice of Allowance is courteously solicited. In the event the Examiner deems a further discussion of this application would expedite prosecution to allowance, the undersigned Attorney of Record would welcome the opportunity to hold such a discussion. The Examiner's cooperation in this regard is sincerely appreciated.

A Petition for a two-month Extension of Time with the requisite fee is submitted herewith, thereby providing for the timely filing of this Amendment. It is believed that no other fees are necessitated by this amendment. However, should this be in error, authorization to charge Deposit Account No. 03-3839 for any underpayment or credit any overpayments.

Respectfully submitted,



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